

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on March 24, 2003 at 9:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. George Everett (R)  
Rep. Tom Facey (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Michael Lange (R)  
Rep. Bruce Malcolm (R)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. John Parker (D)  
Rep. Holly Raser (D)  
Rep. Diane Rice (R)  
Rep. Scott Sales (R)  
Rep. Ron Stoker (R)  
Rep. Bill Thomas (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Pamela Schindler, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: SB 133, SB 329, SB 328

Executive Action: SB 329-Be Concurred In/Place on  
Consent Calendar  
SB 328-Tabled  
SB 133-Be Concurred In  
SB 394-Tabled  
SB 364-Be Concurred In as Amended

**HEARING ON SB 133**

**Sponsor:** SEN. TOM ZOOK, SD 2, Miles City, Montana

**Opening Statement by Sponsor:**

**SEN. ZOOK** opened the hearing on SB 133 by saying that this bill allows the Department of Corrections to utilize the Juvenile Parole Officers more efficiently.

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 14}***

**Proponents' Testimony:**

**Karen Duncan, State of Montana, Department of Corrections (DOC),** spoke to the Committee about SB 133 and how it relates to the management concern about the appropriate assignment of duties of some employees at the DOC. She informed the Committee that the state of Montana has 12 Juvenile Parole officers covering five regions. She spoke of the individual criteria that would be addressed by this bill.

***{Tape: 1; Side: A; Approx. Time Counter: 14 - 30}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REPS. FACEY, MALCOLM, NOENNIG, STOKER, SHOCKLEY and CLARK** asked Ms. Duncan numerous questions about the duties of the placement committees, intervention matters of the youths involved and who appoints the members of the placement committees. Several questions were asked about the Judge's involvement in the system and the criteria they must follow in the appointment of members.

***{Tape: 1; Side: A; Approx. Time Counter: 30 - 173}***

**Closing by Sponsor:**

**SEN. ZOOK** closed the hearing on SB 133 by stating that this bill would provide the Department of Corrections more management ability for better efficiency.

***{Tape: 1; Side: A; Approx. Time Counter: 173 - 183}***

**HEARING ON SB 329**

**Sponsor:** **SEN. JEFF MANGAN, SD 23, Great Falls, Montana**

**Opening Statement by Sponsor:**

**SEN. MANGAN** opened the hearing on SB 329 by saying that this was originally brought forth in 1999 where a "sunset" was established for a two-year prototype to get the curriculum started. In 2001, another two years was added with the "sunset" to be in 2003. SB 329 now puts it into statute without a sunset attached.

***{Tape: 1; Side: A; Approx. Time Counter: 183 - 219}***

**Proponents' Testimony:**

**Bill Slaughter, State of Montana, Department of Corrections,** rose in support of SB 329.

***{Tape: 1; Side: A; Approx. Time Counter: 219 - 273}***

**Jim Oppedahl, Board of Crime Control,** spoke in support of SB 329.

***{Tape: 1; Side: A; Approx. Time Counter: 273 - 287}***

**Audrey Allums, State of Montana, Youth Justice Court,** spoke in support of SB 329.

***{Tape: 1; Side: A; Approx. Time Counter: 287 - 319}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

Questions deferred until Sen. Mangan closes on his other bill, SB 328. Sen. Mangan was very ill and was trying to expedite the proceedings.

**Closing by Sponsor:**

**SEN. MANGAN** closed on SB 329.

**HEARING ON SB 328**

**Sponsor:** **SEN. JEFF MANGAN, SD 23, Great Falls, Montana**

**Opening Statement by Sponsor:**

**SEN. MANGAN** opened the hearing on SB 328 by stating that this bill would address child care drop-in centers; the background checks and the licensing of the employees who work there.

***{Tape: 1; Side: A; Approx. Time Counter: 319 - 373}***

**Proponents' Testimony:**

**Steve Yeakel, Montana Childcare Workers Association,** rose in support of SB 328.

***{Tape: 1; Side: A; Approx. Time Counter: 373 - 385}***

**Opponents' Testimony:**

**Scott Crichton, ACLU,** rose in opposition to SB 328 and stated that his organization was not in favor of the fingerprinting of potential employees; however, name and background checks were permissible. He informed the Committee that this bill would not have any enforcement abilities due to the 100% turnover rate of employees at the aforementioned centers.

***{Tape: 1; Side: A; Approx. Time Counter: 385 - 428}***

**Informational Testimony:**

**Becky Fleming-Semenaller, State of Montana, Department of Public Health and Human Services (DPHHS),** informed the Committee she would be available to answer any questions.

***{Tape: 1; Side: A; Approx. Time Counter: 428 - 438}***

**Questions from Committee Members and Responses:**

**REPS. LASZLOFFY, RICE, LANGE, NOENNIG, CLARK and RASER** asked questions of the sponsor and Ms. Fleming-Semenaller about the difference between regular and irregular day-care centers, and number of incidents and/or violations seen by DPHHS.

*{Tape: 1; Side: A; Approx. Time Counter: 438 - 500}*

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 43}*

**Closing by Sponsor:**

**SEN. MANGAN** closed the hearing on SB 328.

*{Tape: 1; Side: B; Approx. Time Counter: 43 - 63}*

**EXECUTIVE ACTION ON SB 329**

**Motion:** **REP. GUTSCHE** moved that SB 329 BE CONCURRED IN.

**Discussion:**

**REPS. SALES, NOENNIG, STOKER and FACEY** questioned Mr. Slaughter (DOC) about the fiscal impact, time limits, curriculum and youths in nonprofit agencies. There was additional discussion regarding the Police Officers and Sheriffs Training program.

**Vote:** Motion that SB 329 BE CONCURRED IN carried unanimously.  
(voice vote)

*{Tape: 1; Side: B; Approx. Time Counter: 63 - 228}*

**EXECUTIVE ACTION ON SB 328**

**Motion:** **REP. LANGE** moved that SB 328 BE CONCURRED IN.

**Discussion:**

**REPS. RICE, STOKER, MALCOLM, CLARK, PARKER, NOENNIG, SALES and SHOCKLEY** questioned Ms. Semenaller regarding the number of drop-ins a center may have, the time period involved to complete background checks, and the enforcability of the licenses. There were additional questions asked regarding the civil liability, screening mechanisms in place and the negligence/statutory duty issues that may arise.

Vote: Motion that SB 328 BE CONCURRED IN failed 8-10 with REPS. CLARK, FACEY, GALLUS, GUTSCHE, HARRIS, NEWMAN, PARKER, and RASER voting aye. (roll call vote)

Motion/Vote: Motion SB 328 vote BE REVERSED and TABLED carried unanimously. (voice vote)

*{Tape: 1; Side: B; Approx. Time Counter: 228 - 500}*

EXECUTIVE ACTION ON SB 133

Motion: REP. FACEY moved that SB 133 BE CONCURRED IN.

Discussion:

REPS. NOENNIG, SHOCKLEY, CLARK, RASER, PARKER and MALCOLM discussed the reason why this bill is here in the legislature, and if this is a "turf war" that the legislature is being brought into.

Vote: Motion that SB 133 BE CONCURRED IN carried 11-7 with REPS. CLARK, EVERETT, GUTSCHE, MALCOLM, NEWMAN, NOENNIG, and SALES voting no. (roll call vote)

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 88}*

EXECUTIVE ACTION ON SB 394

Motion: REP. SALES moved that SB 394 BE CONCURRED IN.

Motion: REP. SALES moved that SB 394 BE AMENDED.

Discussion:

REP. SALES discussed the proposed amendment regarding the "sunset" language of four years be added to the bill. REPS. GALLUS, RICE and CLARK discussed the amendment.

Vote: Motion that SB 394 BE AMENDED failed 8-10 with REPS. EVERETT, LANGE, MALCOLM, NOENNIG, SALES, SHOCKLEY, STOKER, and THOMAS voting aye. (roll call vote)

Discussion:

REPS. NOENNIG, SALES and GALLUS discussed the bill regarding the settlement aspect and attorney fees awarded.

Vote: Motion that SB 394 BE CONCURRED IN failed 4-14 with REPS. LANGE, SALES, SHOCKLEY, and STOKER voting aye. (roll call vote)

Motion/Vote: Motion SB 394 vote BE REVERSED AND TABLED carried unanimously. (voice vote)

*{Tape: 2; Side: A; Approx. Time Counter: 88 - 266}*

EXECUTIVE ACTION ON SB 364

Motion: REP. SALES moved that SB 364 BE CONCURRED IN.

Motion: REP. CLARK moved that SB 364 BE AMENDED.

Discussion:

REP. CLARK discussed his proposed amendment for Page 2, Line 20; to add the word "distribution." Mr. MacMaster explained it further.

Vote: Motion that SB 364 BE AMENDED carried unanimously. (voice vote)

Motion: REP. FACEY moved that SB 364 BE CONCURRED IN AS AMENDED.

Discussion:

REP. NEWMAN, NOENNIG and Mr. MacMaster discussed the bill.

Motion: REP. NOENNIG moved that SB 364 BE AMENDED.

Discussion:

REP. NOENNIG discussed this proposed amendment regarding the language on Page 2, Line 26 - Page 3, Line 3, striking the language therein.

Vote: Motion that SB 364 BE AMENDED carried unanimously. (voice vote)

Motion/Vote: REP. GALLUS moved that SB 364 BE CONCURRED IN AS AMENDED. Motion carried unanimously. (voice vote)

*{Tape: 2; Side: A; Approx. Time Counter: 266 - 500}*

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 51}*

Motion/Vote: REP. SHOCKLEY moved SB 329 be PLACED ON THE CONSENT CALENDAR. Motion carried unanimously. (voice vote)

*{Tape: 2; Side: B; Approx. Time Counter: 51 - 75}*

NOTE: IN ALL THE AFOREMENTIONED EXECUTIVE ACTIONS, REP. CLARK HAS ON FILE A PERMANENT PROXY FOR REP. HARRIS.



**ADJOURNMENT**

Adjournment: 11:15 A.M.

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REP. JIM SHOCKLEY, Chairman

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PAMELA SCHINDLER, Secretary

JS/PS

**EXHIBIT** (juh62aad)